

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FILED
CLERKS OFFICE

C. A. NO. 03-30277 P 12: 05

FAMILY ROSARY, INC.,

Plaintiff,

v.

BOWDOIN CONSTRUCTION CORP.
and ST. PAUL FIRE & MARINE
INSURANCE COMPANY,

Defendants.

U.S. DISTRICT COURT
DISTRICT OF MASS.

**MOTION FOR STAY OF ACTION AND APPLICATION FOR ORDER
DIRECTING PLAINTIFF TO PROCEED TO ARBITRATION**

Pursuant to Massachusetts General Laws, ch. 251, § 2, the defendants, Bowdoin Construction Corp. and St. Paul Fire & Marine Insurance Company, move the court to stay the within action and hereby apply for an order directing the plaintiff to arbitrate the controversies between the parties. In support of this motion, the defendants state that there is a valid arbitration clause in the agreement between the plaintiff and the defendant, Bowdoin Construction Corp., and the issues presented for determination in the above action are referable to arbitration in accordance with and pursuant to the said agreement of the parties. The arbitration clause is also incorporated within the performance bond executed by St. Paul Fire & Marine Insurance Company. In support of this motion and application, the defendants submit the Affidavit of George W. Chabot, Jr. and a memorandum in support, filed herewith.

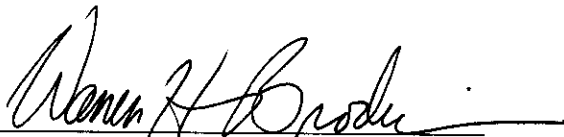
WHEREFORE, the defendants move that:

- (1) The time for filing an answer or other pleading by the defendants be extended until further order of the court;
- (2) This action be stayed from any further proceeding until further order of the court;
- (3) All proceedings in this action be stayed until an arbitration has been had and an award entered therein, in accordance with the terms of the agreement between the parties; and
- (4) For such other and further relief as the court deems proper.

Certification of Counsel

I, Warren H. Brodie, attorney for the defendants, hereby certify pursuant to U.S.D.Ct., L.R. 7.1, that I have conferred with counsel and have attempted in good faith to resolve the issues that are the subject of this motion.

For the defendants,
Bowdoin Construction Corp. and St. Paul
Fire & Marine Insurance Company,
By their attorneys,
Law Offices of Warren H. Brodie, P.C.,

By: 

WARREN H. BRODIE
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above motion and supporting documents were served upon all attorneys of record by mailing copies of same, postage prepaid, on December 16, 2003 to

Brian R. Haak, Esq.
Tobin and Dempf, LLP
33 Elk Street
Albany, NY 12207


WARREN H. BRODIE